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December 23, 1999

FILED

DEC 23 1999

Mr. Dale Hardy Roberts
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

**Missouri Public
Service Commission**

**RE: Missouri-American Water Company - Consolidated Case Nos. WR-2000-281
SR-2000-282**

Dear Mr. Roberts:

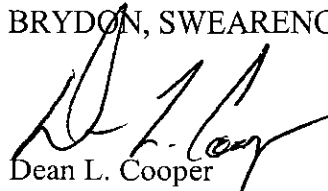
Enclosed for filing in the above-referenced proceeding please find an original and fourteen copies of MAWC's Reply to Staff's Motion for Leave to Late-File Response and Response to MAWC's Motion for Accounting Authority Order. Please stamp the enclosed extra copy "filed" and return same to me.

If you have any questions concerning this matter, then please do not hesitate to contact me. Thank you very much for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



Dean L. Cooper

DLC/rhg
Enclosures

cc: Office of the Public Counsel
Mr. Keith Krueger
Ms. Shannon Cook
Mr. Louis Leonatti
Mr. Jim Fischer
Mr. Leland Curtis
Mr. Brent Stewart
Mr. Chuck Brown

Mr. Joseph Moreland
Mr. Stu Conrad
Ms. Lisa Robertson
Ms. Diana M. Vuylsteke

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED

DEC 23 1999

In the Matter of Missouri-American)
Water Company's Tariff Sheets Designed)
to Implement General Rate Increases for) Case No. WR-2000-281
Water and Sewer Service provided to) Case No. SR-2000-282
Customers in the Missouri Service Area)
of the Company.)

Missouri Public
Service Commission

**MAWC'S REPLY TO STAFF'S MOTION FOR LEAVE
TO LATE-FILE RESPONSE
AND RESPONSE TO MAWC'S
MOTION FOR ACCOUNTING AUTHORITY ORDER**

COMES NOW Missouri-American Water Company ("MAWC" or "Company") and, for its Reply to the Commission Staff's ("Staff") Motion for Leave to Late-File Response and Response to Missouri-American Water Company's Motion for Accounting Authority Order¹, states to the Missouri Public Service Commission ("Commission") as follows:

1. On November 19, 1999, MAWC filed its Direct Testimony (excluding rate design testimony which was filed on November 29, 1999), Recommendation Concerning Proper Test Year, Motion for True-Up Audit and Hearing and Motion for Accounting Authority Order ("AAO"). This Motion for AAO requested authorization from the Commission: 1) to continue the capitalization of Allowance for funds Used During Construction ("AFUDC") and to defer the accrual of depreciation expense on the St. Joseph treatment plant and related facilities from their in-service date until the effective date of a Commission rate order which includes the St. Joseph treatment plant and related facilities in MAWC's rate base and includes depreciation expense in MAWC's operating expenses;

1

MAWC would also refer the Commission to its Reply to Public Counsel's Response to MAWC's Motion for Accounting Authority Order and Suggestions in Opposition to MAWC's Motion for Accounting Authority Order, filed December 9, 1999, for further treatment of the issues raised by the Staff in its pleading.

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and, 2) to use a rate of 7.22% to capitalize AFUDC on the St. Joseph treatment plant and related facilities from its in-service date until the effective date of a Commission rate order including the St. Joseph treatment plant and related facilities in MAWC's rate base.

2. On December 14, 1999, Staff filed its Motion for Leave to Late-File Response and its Response to MAWC's Motion for Accounting Authority Order.

STAFF'S MOTION FOR LEAVE

3. MAWC does not object to Staff's Motion for Leave to Late-File Response.

STAFF'S RESPONSE TO MAWC'S MOTION FOR ACCOUNTING AUTHORITY ORDER

4. The Staff indicates that the construction of the St. Joseph treatment plant and related facilities is not an "extraordinary, unusual and unique, and nonrecurring" event because

the construction of additional facilities is a normal part of doing business for any water utility company, and therefore the situation that confronts the Company regarding the St. Joseph plant is not extraordinary at all. Rather, the construction of new facilities is fundamental to the Company's conduct of its ongoing utility operations.

5. First, the construction which is the subject of this request is not related to "additional facilities." This is not construction that is primarily driven, in the first instance, by a need for more capacity due to growth. This motion involves the *replacement* of facilities as driven by changes in the quality of the source of supply, weather impacts and changes in regulatory requirements that have necessitated a new approach to treatment and source of supply (See Commission Case No. WA-97-46). These events or circumstances are extraordinary, unusual and unique, and not recurring. (*See In re The Application of Missouri Public Service for the Issuance of an Accounting Authority Order*, 1 Mo. P.S.C. 3d 200, 205 (1991)). They also are consistent with those examples that have been provided by the Commission in the past, such as Acts of God (i.e. storm damage, fire

or flood) and man-made decisions that result in significantly changed business conditions. (*See In the Matter of the Application of United Water Missouri Inc.*, Case No. WA-98-187 (April 20, 1999); *See also In Re St. Louis County Water Company*, 4 Mo.P.S.C. 3d 94, 98 (September 19, 1995) (The Commission found that “the infrastructure program represents a significant and unusual increase in County Water’s business-as-usual construction expenditures, and is extraordinary in nature.”)).

6. Second, it is unclear why the fact that the subject of the proposed AAO is “fundamental to the Company’s conduct of its ongoing utility operations” is a disqualifying feature. It is doubtful that the Commission would seriously entertain a request for an AAO concerning expenditures which are not related to the applicant’s ongoing utility operations. The fact that this request concerns a fundamental part of MAWC’s operations is a fact that shows the importance of the construction, not a reason for denial.

7. The Staff additionally states that the costs identified in MAWC motion are a normal result of regulatory lag and that “regulatory lag is . . . not an extraordinary event, but is a fundamental part of the process of utility regulation that exists in Missouri.” It is true that this situation is at least partially created by regulatory lag. However, all AAO situations result from the effects of regulatory lag. The AAO is a recognized tool whose purpose is to counteract regulatory lag in appropriate situations.

8. The Staff further alleges that regulatory lag in this case is acceptable because “the timing of the events in this case . . . is totally within the control of the Company” and “the Company also has total control over the timing and manner in which it seeks to have the cost of the plant included in the rates it charges to its customers.” This implication that MAWC had the opportunity to time the in-service date of the treatment plant and related facilities to coincide with the operation of law date is inaccurate. It completely ignores the fact that the test year and any true-up periods are

set, not by MAWC, but by the Commission.

9. In this case, for example, MAWC's proposed a true-up period, which would include the St. Joseph treatment plant and related facilities, has been met with claims from more than one party that an insufficient time has been provided between the close of the true-up period and the operation of law date. This is in spite of the fact that MAWC's proposal has provided for a period of 137 days from true-up to operation of law date, a period which greatly exceeds the periods ordered by the Commission in its most recent rate cases.² Because of these objections, MAWC still cannot even be sure that the St. Joseph treatment plant and related facilities will be included in this rate case. In the alternative, MAWC is forced to address the possibility that it will be required to file another rate case to capture this construction. MAWC does not have "total control over the timing and manner" and to indicate that it does is not an accurate description of the ratemaking process.

10. The Staff also indicates that one option available to MAWC is to file "for emergency rates, to be effective when construction is complete and the plant is in service." While this is certainly a possibility, it is not the course of action that MAWC has thus far pursued. There is some benefit to the AAO process in that it would avoid the possible confusion for ratepayers of two rate increases in a very short period of time, while still preserving issues of recovery for the Commission. Additionally, within the context of this rate case such things as offsets for cost savings related to the St. Joseph treatment plant and related facilities can be taken into account in determining the appropriate revenue requirement.

2

See page 2 of MAWC's Reply to Suggestions in Opposition to Missouri-American's: 1. Recommendation Concerning Proper Test Year; and 2. Motion for True-Up Audit and Hearing, filed December 9, 1999, for a detailed comparison of MAWC's proposal and those true-up audit and hearings recently ordered by the Commission.

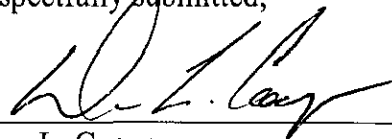
WHEREFORE, MAWC respectfully requests that the Commission issue an Accounting Authority Order:

(a) authorizing MAWC to continue the capitalization of AFUDC and to defer the accrual of depreciation expense on the St. Joseph treatment plant and related facilities from their in-service date until the effective date of a Commission rate order which includes the St. Joseph treatment plant and related facilities in MAWC's rate base and includes depreciation expense in MAWC's operating expenses;

(b) authorizing MAWC to use a rate of 7.22% to capitalize AFUDC on the St. Joseph treatment plant and related facilities from their in-service dates until the effective date of a Commission rate order including the St. Joseph treatment plant and related facilities in MAWC's rate base; and,

(c) including such further relief as the Commission deems appropriate in the circumstances.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI-AMERICAN
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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 23rd day of December, 1999, to the following:

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